

RETURN DATE: MARCH, 25 2003

RICHARD BLUMENTHAL,  
ATTORNEY GENERAL

*Plaintiff*

v.

YALE-NEW HAVEN HOSPITAL, INC.

*Defendant*

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SUPERIOR COURT

JUDICIAL DISTRICT OF HARTFORD  
AT HARTFORD

FEBRUARY 20, 2003

## **COMPLAINT**

### **INTRODUCTION**

1. This is an action brought by the Attorney General for the State of Connecticut against Yale-New Haven Hospital (the “Hospital”) to ensure that the Hospital meets its obligation to provide free medical care to some of Connecticut’s neediest citizens. The Hospital currently maintains as part of its endowment approximately \$37 million in so-called “free bed funds.” Free bed funds are gifts of money or stock to a hospital for the purpose of endowing free patient care at the Hospital. The general intent of the donors of the free bed funds is that the Hospital invest and maintain the principal, and apply at a minimum the interest income of the funds to provide hospitalization and free medical care for the needy and other classes of beneficiaries specified by the donors.

2. Despite the fact that the Hospital’s endowment for free bed funds has risen dramatically over the years, the Hospital has failed to provide free medical care for many eligible patients. Instead, the Hospital has allowed its free bed fund endowment to accumulate excessively, with most of its realized gains not being used to provide the free care the donors intended. As a result, the Hospital is failing to meet its statutory obligations and fiduciary duty to the donors of the funds. More importantly, the Hospital’s actions are depriving needy patients

who lack the ability to pay for critical medical services the benefit of these funds and is then subjecting them to aggressive debt collection practices initiated when they are unable to pay their medical bills.

3. Through this action, the Attorney General seeks a court order requiring the Hospital to meet its fiduciary obligations by: (1) providing real and meaningful access to these free bed funds to those individuals who have an inability to pay for their medical bills, including full and timely notice of the availability of these funds; (2) eliminating unreasonable barriers to applying for the receipt of such funds; and (3) refraining from engaging in debt collection practices against those individuals who may qualify for free care from the Hospital.

### **COUNT ONE**

1. The plaintiff is Richard Blumenthal, Attorney General of the State of Connecticut, acting pursuant to Conn. Gen. Stat. Sec. 3-125, which, *inter alia*, charges him with the duty to “represent the public interest in the protection of any gifts, legacies or devices given for public or charitable purposes.”

2. The defendant, Yale-New Haven Hospital, Inc. (“the Hospital”), is a Connecticut non-stock corporation organized for the charitable purpose of providing healthcare in hospital and outpatient settings, with offices located at 20 York Street, New Haven, Connecticut 06504.

3. The Hospital holds certain charitable bequests and gifts given for the purpose of providing “free beds” or free medical care to members of the public who fit the class of beneficiaries specified by the donors. A list of the known free bed funds is attached hereto as Exhibit A.

4. As a fiduciary holding and administering the free bed funds, the Hospital has a duty to provide access to these funds to qualified individuals. This duty includes the obligation to timely

inform patients who lack sufficient medical insurance, or otherwise have difficulty in paying all or part of a bill for medical services rendered by the Hospital, of the availability of free bed funds in order to provide financial assistance to those patients of the Hospital.

5. Interest income has been earned annually on the principal of each of the free bed funds. The Hospital has also received significant realized and unrealized gains from the investment of the free bed funds. For example, from October 1, 1997 through September 30, 1998, the Hospital earned \$274,574 in interest income and over \$5 million dollars in realized gains on its bed funds. Despite the interest income and significant realized gains, the Hospital only spent \$258,143 on free beds during this time period.

6. In fiscal year 2000, the Hospital spent only 41% of the income earned from its free bed fund endowment directly on patient care. The remainder of the income earned for fiscal year 2000 was transferred by the Hospital to its “free care fund,” for which the Hospital has established even more restrictive eligibility requirements, thereby making the funds less accessible to the recipients intended by the donors.

7. The Hospital receives very few applications for free bed funds. During the years of 1996-2000, the Hospital only received an average of fifty-five applications per year. The number of applications does not correlate to the number of patients who have an inability to pay for some or all of their medical bills.

8. The paucity of applications is a direct result of the failure of the Hospital to provide adequate notice of the availability of the free bed funds and the unreasonable restrictions the Hospital has imposed on applying for and receiving the free bed funds.

9. As a result of the Hospital’s failure to spend the free bed funds on patient care, the amount in the free bed funds has grown to approximately \$37 million dollars.

10. Although not a requirement specified in the gift instruments establishing the free bed funds, the Hospital requires that an applicant's income not exceed 2.5 times the federal poverty level to qualify for free bed funds.

11. In the years that the Hospital has not even had enough applications to spend the annual interest income on free bed care, the Hospital transferred the excess interest income to its own internal free care program.

12. In order to qualify for the Hospital's free care program, an applicant's income cannot exceed 1.5 times the federal poverty level, a requirement that is more difficult to qualify for than the Hospital's self-imposed criteria for free bed funds.

13. The Hospital has breached its fiduciary duty to make these funds available to patients unable to pay all or part of a bill for medical service(s) in that:

(a) The Hospital failed to timely inform patients and/or potential patients who lack medical insurance or who otherwise have financial difficulty in paying all or part of a bill for medical services rendered by the Hospital of the availability of the free bed funds in order to provide financial assistance to these patients at the hospital;

(b) As a result of the Hospital's failure to publicize and inform patients of the availability of said funds, the Hospital annually transferred the unused interest income to its more restricted internal hospital program, making it more difficult for patients to access these funds;

(c) As a result of the Hospital's failure to publicize and inform patients of the availability of said funds, the Hospital has accumulated excessive amounts of realized and unrealized gains that has not been made available for patients unable to pay all or part of their medical expenses incurred at the Hospital;

(d) Upon request, the Hospital failed to provide free bed funds applications to potential patients.

## **COUNT TWO**

1. – 12. Paragraphs One through Twelve of Count One are hereby incorporated as paragraphs one through Twelve of Count Two.

13. The Hospital has imposed and continues to impose, as a matter of its own internal policy, certain restrictions on the use of free bed funds that were not set forth in the original gift instruments.

14. For example, prior to allowing a patient to apply for assistance from the free bed funds, the Hospital requires a patient to first apply for city and state welfare programs as well as the Hospital's internal free care program.

15. Upon information and belief, the Hospital provides limited assistance to patients applying for these programs.

16. Only after proof of denial from all these programs is the patient is permitted to apply for the free bed funds.

17. Upon information and belief, the Hospital provides limited or no assistance with the application for the free bed funds and fails to notify patients of the necessity to apply for the funds after receipt of their denial letters.

18. These requirements, and lack of assistance from the Hospital, present an unreasonable and formidable barrier to patients accessing free bed care funds.

19. The significance of these barriers is demonstrated by the paucity of applications received for the free bed fund each year by the Hospital, despite the increase in collection actions initiated by the Hospital.

20. The Hospital's imposition of these additional and unreasonable requirements, which are not set out in the original gift instrument, violates the Statute of Charitable Trusts, Conn.

Gen. Stat. Sec.45a-514, or in the alternative, the Statute of Charitable Uses, Conn. Gen. Stat. Sec. 47-2, by limiting the number of low-income patients who are able to become eligible for free bed funds.

### **COUNT THREE**

1. – 12. Paragraphs One through Twelve of Count One are hereby incorporated as Paragraphs One through Twelve of Count Three.

13. As a matter of its own internal policy, the Hospital disqualifies all Medicare patients from applying for free bed funds that could be used to assist them with the payment of balances over and above what Medicare pays, and for medical services not covered by Medicare, without regard to the individual patient's ability to pay such balance.

14. None of the language of the instruments establishing the free bed funds held and administered by the Hospital requires or permits the disqualification of otherwise eligible Medicare patients who have an inability to pay from receiving free bed funds.

15. The Hospital's imposition of this additional requirement, which is not set out in the original gift instruments, violates the Statute of Charitable Trusts, Conn. Gen. Stat. Sec. 45a-514, or in the alternative, the Statute of Charitable Uses, Conn. Gen. Stat. Sec. 47-2, by limiting unreasonably the number of low-income, elderly or disabled patients who are eligible for free bed funds.

### **COUNT FOUR**

1. – 12. Paragraphs One through Twelve of Count One are hereby incorporated as paragraphs One through Twelve of Count Four.

13. The Hospital has transferred the annual unused interest income from the hospital bed funds to its own internal hospital program, for which the Hospital has established even more

restrictive eligibility requirements, thereby making the funds less accessible to the recipients intended by the donors.

14. The Hospital has accumulated excessive amounts of realized and unrealized gains, which are not being used for eligible patients, thereby making the bed funds less accessible to the recipients intended by the donors.

15. The Hospital's transfer of unused interest income and excessive accumulation of realized and unrealized gains, which is not required by the original gift instrument, violates the Statute of Charitable Trusts, Conn. Gen. Stat Sec.45a-514 or in the alternative the Statute of Charitable Uses, Conn. Gen. Stat. Sec. 47-2 by limiting the availability of these funds and in contravention of the donors' intentions.

#### **COUNT FIVE**

1. – 12. Paragraphs One through Twelve of Count One are hereby incorporated and made Paragraphs One through Twelve of Count Five.

13. Conn. Gen. Stat. Sec. 19a-509b(d) provides in relevant part: "Patients who cannot pay any outstanding medical bills at the hospital shall be allowed to apply or reapply for hospital bed funds."

14. During the period that an individual's applications for city and state social programs are being prepared for, submitted to, and reviewed by the appropriate welfare agency, as required by the Hospital, before the individual is even permitted to apply for the Hospital's free bed funds, the Hospital continues to bill the individual for the medical services received. As a result, the individual is treated as a "self-pay patient" and subject to the Hospital's routine bill collection policies.

15. Pursuant to these collection policies, at any time between 90 and 120 days from the date of service, the Hospital sends an unsatisfied bill of a self-pay patient to a collection agency or collection attorney who initiates collections procedures and legal actions against these patients prior to their even being permitted to apply for free bed funds.

16. The Hospital's failure to permit individuals subject to collection actions by the Hospital to apply or reapply for free bed funds prior to the initiation of collection actions and its failure to suspend the collection actions until eligibility for the free bed funds is determined violates Conn. Gen. Stat. § 19a-509b(d).

### **COUNT SIX**

1.-12. Paragraphs One through Twelve of Count One are hereby incorporated and made Paragraphs One through Twelve of Count Six.

13. The Hospital has imposed and continues to impose, as a matter of its own internal policy, restrictions on the services that are eligible for the free bed funds.

14. As the Hospital has outsourced many of the medical service that is traditionally provide itself, and further restricts the medical services that are eligible for free bed funds, it has decreased the ability of eligible individuals to access and use the free bed funds for medically necessary services for which they have an inability to pay.

15. The Hospital's imposition of these additional requirements, which is not set out in the original gift instruments, violates the Statute of Charitable Trusts, Conn. Gen. Stat. § 45a-514, or in the alternative, the Statute of Charitable Uses, Conn. Gen. Stat. 47-2, by unreasonably limiting the free bed funds in contravention of the donor's intentions.

## **COUNT SEVEN**

1. – 3. Paragraphs One through Three of Count One are hereby incorporated and made Paragraphs One through Three of Count Six.

4. Conn. Gen. Stat. § 19a-509b(b)(1) provides in relevant part: “Each hospital which holds or administers one or more hospital bed funds shall post or cause to be posted in a conspicuous public place in each patient admitting location, including but not limited to, the admissions office, emergency room, Department of Social Services and patient accounts or billing office, information regarding the availability of its hospital bed funds, in plain language in a forty-eight to seventy-two point type size.”

5. On information and belief, the Hospital has failed to post the notice required by § 19a-509b(b)(1) and has refused to provide applications or information regarding the free bed funds upon request.

6. Consequently, by its actions, the Hospital has failed to comply with Conn. Gen. Stat. Sec. 19a-509b(b)(1).

## **PRAYER FOR RELIEF**

WHEREFORE, the Attorney General respectfully requests that the Court grant the following relief:

1. A temporary and permanent injunction requiring Yale-New Haven Hospital, Inc. to inform each and every patient, or potential patient who lacks medical insurance, or who otherwise will have financial difficulty in paying all or part of a bill for medical services rendered by said hospital of the availability of the free bed funds to provide financial assistance to needy patients at the hospital.

2. A temporary and permanent injunction requiring Yale-New Haven Hospital, Inc. to cease and desist from requiring patients (1) to apply to city and state social programs and (2) present a written determination of eligibility from said programs prior to applying for free bed funds; or in the alternative, if the Court finds that such requirements are reasonable and in furtherance of the Hospital's fiduciary duty, a temporary and permanent injunction requiring Yale New-Haven Hospital, Inc. to provide adequate assistance in filling out such forms and in following their review by the city or state agency, either through the Hospital's own staff or with the assistance of local social service organizations, to ensure that each patient is given sufficient resources to comply with the Hospital's internal screening policies and not be disqualified from receiving free bed funds as a result of the patient's inability to comply.

3. A temporary and permanent injunction requiring the Hospital to cease and desist from disqualifying needy Medicare patients from applying for free bed funds to pay their self-pay balances, as long as such patients show an inability to pay or would otherwise qualify for free bed funds.

4. A temporary and permanent injunction requiring Yale New-Haven Hospital to cease and desist from sending an individual's account to a collection agency or collections attorney, if the individual has applied for city or state welfare, or is otherwise attempting to apply for assistance from the Hospital's bed funds; and further requiring the Hospital to provide to all individuals whose accounts have been sent to a collection agency or collection attorney written notice in each billing or communication, of the potential availability of free bed funds to pay for all or a portion of their hospital bills.

5. A temporary and permanent injunction prohibiting the Hospital from transferring income from its free bed funds into the Hospital's free care account.

6. A temporary and permanent injunction requiring the Hospital to apply the free bed funds to all inpatient and outpatient services of the Hospital regardless of the entity who actually bills for such services.

7. A temporary and permanent injunction requiring Yale New-Haven Hospital, Inc. to post in a conspicuous public place in each patient admitting location, including but not limited to, the admissions office, emergency room, Department of Social Services and patient accounts or billing office, information regarding the availability of its hospital bed funds, in plain language in a forty-eight to seventy-two point type size as required by Conn. Gen. Stat. § 19a-509b(b)(1).

8. A temporary and permanent injunction requiring the Hospital to make applications for free bed funds available on request of any person.

9. Any other relief the Court deems just and equitable.

THE PLAINTIFF

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BY:

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